

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ROBERT ALLEN STANARD,

Plaintiff,

v.

MARIA DY, *et al.*,

Defendants.

Case No. C19-1400-RSM

ORDER DENYING PLAINTIFF'S  
APPLICATION FOR COURT-  
APPOINTED COUNSEL

This matter comes before the Court on Plaintiff's Application for Court-Appointed Counsel, Dkt. #59. Plaintiff, proceeding *in forma pauperis*, brings this case against several defendants for violating his Eighth Amendment rights regarding his lack of treatment for Hepatitis C while at FDC SeaTac. Dkt. #14. While Plaintiff's other claims were dismissed, Plaintiff's Eighth Amendment claim remains after being remanded by the Ninth Circuit Court of Appeals. Dkts. #50, #51.

In civil cases, the appointment of counsel to a pro se litigant "is a privilege and not a right." *United States ex. Rel. Gardner v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965) (citation omitted). "Appointment of counsel should be allowed only in exceptional cases." *Id.* (citing *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963)). A court must consider together "both the

1 likelihood of success on the merits and the ability of the petitioner to articulate his claims pro se  
2 in light of the complexity of the legal issues involved.” *Weygandt v. Look*, 718 F.2d 952, 954  
3 (9th Cir. 1983). In “exceptional circumstances,” a district court may appoint counsel for indigent  
4 civil litigants. 28 U.S.C. § 1915(e)(1); *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997),  
5 *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998).

6 This is Plaintiff’s third Application requesting court-appointed counsel. *See* Dkts. #25,  
7 #28, #59. Plaintiff states that he “did a google search of Federal Civil Rights Attorneys in  
8 Washin[g]ton State . . . I called each one, left message[s] or spoke to a paralegal/receptionist.”  
9 Dkt. #59 at 2. Plaintiff further states that he believes a federal agency officially determined there  
10 is reasonable cause to believe his allegations are true because he understood “the 9th Circuit  
11 Court of Appeals in their decisions to remand this case back to the District Court . . . [to be] a  
12 clear determination of the facts of the case. They agreed.” *Id.*

13 The Court finds that Plaintiff has not demonstrated “exceptional circumstances”  
14 necessitating court-appointed counsel. Plaintiff provides no reasoning other than the above for  
15 why he requires court-appointed counsel at this point. The issues presented are not particularly  
16 complex, and Plaintiff has made numerous filings demonstrating that he is able to effectively  
17 articulate his claims and the legal issues involved, although he has delayed in filing a Response  
18 to Defendants’ current Motion to Dismiss. It is also unclear at this stage whether Plaintiff’s  
19 remaining claim will be successful on the merits. Though the Ninth Circuit remanded Plaintiff’s  
20 claim, the Ninth Circuit declined to rule on the plausibility of Plaintiff’s Eighth Amendment  
21 claim because this Court did not previously rule on it. *See* Dkts. #44, #49. However, the Court  
22 notes that in her Report and Recommendation, U.S. Magistrate Judge Michelle Peterson  
23 recommended Plaintiff’s claim be dismissed because he failed to allege facts pointing to  
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1 deliberate indifference by Defendants under the Eight Amendment. Dkt. #36 at 14-16. Based  
2 on these findings, the Court concludes that appointment of counsel is not warranted.

3 Accordingly, having considered Plaintiff's Application and the remainder of the record,  
4 the Court hereby finds and ORDERS that Plaintiff's Application for Court-Appointed Counsel,  
5 Dkt. #59, is DENIED.

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7 DATED this 15<sup>th</sup> day of July, 2024.

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10 RICARDO S. MARTINEZ  
11 UNITED STATES DISTRICT JUDGE  
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